

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. S-1904-A

PETITION OF NORMAN ROSKIN D.V.M.

OPINION OF THE BOARD

(Opinion Adopted March 21, 2007)

(Effective Date of Opinion: May 4, 2007)

Case No. S-1904-A is an application by Norman Roskin for a modification to a special exception for a veterinary hospital. By Resolution dated May 24, 2006, the Board of Appeals also asked the Hearing Examiner to include in the modification hearing the question of the extent of animal boarding in connection with the special exception. The Hearing Examiner held a hearing on the application on June 2, 2006, closed the record in the case on February 15, 2007, and on March 9, 2007, issued a Report and Recommendation for approval of the modification.

The subject property is located at 1300 Olney-Sandy Spring Road, Sandy Spring, Maryland, 20860, in the R-200 Zone.

Decision of the Board: Special Exception **Granted** Subject to
Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on March 21, 2007. The Board also had before it a letter from Joseph A. Lynott, III, received in the Board office on March 20, 2007, requesting Oral Argument on the Hearing Examiner's report. Section 59-A-4.61(e) provides that a party to a Board of Appeals proceeding before the Hearing Examiner may request oral argument before the Board within ten days after transmittal of the Hearing Examiner's report and recommendation. The Board finds that Mr. Lynott's letter was not a timely request for oral argument under that provision, and must therefore be denied. After careful consideration and review of the record, the Board adopts the Hearing Examiner's report and

recommendation, with modifications to Condition Nos. 3, 8 and 10, and grants the special exception, subject to the following conditions:

1. Petitioner shall be bound by all of his testimony and exhibits of record, including the site plan to be submitted pursuant to Condition 3 below, and by the testimony of his witnesses and representations of counsel identified in this report.
2. All terms and conditions of the approved special exception shall remain in full force and effect, except as specifically amended by this modification.
3. Before the modification may take effect, within sixty days following issuance of this opinion, Petitioner shall submit a site plan that has been revised to reflect the numbers of employees permitted under the terms of the modification: a total of 24 employees with no more than 18 on site at one time. The revised site plan shall also specify that no more than six patients may be on site at one time for appointments, excluding emergencies and patients on site for surgical or other procedures.
4. The hospital may have no more than 24 employees, and no more than 18 employees may be on site at any one time. The non-medical boarding facilities shall be limited to a total of two staff.
5. Hours of operation shall be as follows:
7:00 a.m. to 7:30 p.m., Monday through Thursday
7:00 a.m. to 6:00 p.m. Fridays
8:00 a.m. to 5:00 p.m. Saturdays
6. Appointments shall be scheduled at 20- or 30-minute intervals during the following time periods:
9:00 a.m. to 1:00 p.m., Monday through Saturday
2:00 to 4:00 p.m. Monday and Thursday
1:00 to 3:00 p.m. Tuesday
4:00 to 7:00 p.m. Monday through Thursday
3:00 to 5:00 p.m. Fridays
7. No more than four veterinarians may be on site at one time. No more than three veterinarians may see patients by appointment during any appointment period, e.g. 9:00 a.m. to 1:00 p.m.
8. Non-medical animal boarding shall be limited to a maximum of 27 dogs and 8 cats boarded during the course of any month,

which were the maximum numbers boarded in 1997. No animal shall be accepted for non-medical boarding without a record of having received medical care at the hospital during the previous 18 months.

9. The number of functional compartments in the non-medical dog ward shall be reduced to 26 within 60 days of the Board's Opinion on this modification.
10. The parking area shall be brought into conformance with the site plan submitted pursuant to Condition 3, including the addition of two spaces, within four months of the Board's Opinion approving this modification. The Petitioner shall submit photographs or other documentation to show compliance with these requirements within 180 days of the effective date of this opinion. The Board of Appeals reserves jurisdiction to impose additional conditions related to parking in the event that future evidence, such as complaints from neighbors, so warrants.
11. Petitioner shall maintain a written log of all appointments and drop-in and emergency activities, including animals admitted for surgical or other medical procedures, emergency visits, visits to the site for retail items such as food or medications, and drop-offs and pick-ups for non-medical animal boarding.
12. All exterior lighting shall be turned off at 9:00 p.m., except motion-sensor lighting that the Petitioner considers necessary for safety and security.
13. No more than three dogs may be walked outside at any one time. All dog walking shall take place within the fenced area designated "Animal Exercise Area" on the site plan to be submitted pursuant to Condition 3 above.
14. In compliance with Section 59-G-2.32(b)(12), the combined revenue from any accessory operations, such as grooming, the sale of pet food and supplies, and non-medical animal boarding, must be limited to a percentage of sales not to exceed 20 percent.

On a motion by Donna L. Barron, seconded by Caryn L. Hines, with Wendell M. Holloway and Allison Ishihara Fultz, Chair in agreement and Catherine G. Titus necessarily absent, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 4th day of May, 2007.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.